



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/172059

PRELIMINARY RECITALS

Pursuant to a petition filed February 16, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on May 03, 2016, at La Crosse, Wisconsin.

The issue for determination is whether the agency erred in its termination of FS for petitioner effective 12/31/15.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. Petitioner was an ongoing FS beneficiary in a 3-person case (petitioner and two children).

3. Petitioner lives in the upper level of a home owned by her boyfriend and his parents. Petitioner pays rent of \$500 per month.
4. Petitioner cares for the parents.
5. The agency added the boyfriend to petitioner's case which resulted in the closure of the FS case.
6. Petitioner appealed.

DISCUSSION

FS eligibility and monthly allotment calculations are functions of household composition and income. In this case, the agency learned that petitioner was living in a home owned by the parents of Mr. [REDACTED]. The agency also learned that [REDACTED] lives on the same floor as petitioner. This caused the agency to add [REDACTED] to petitioner's case which changed both composition and income and resulted in the termination of FS.

At hearing, petitioner maintained that she and her children purchase and prepare food separately from [REDACTED] and also from his parents. She explained that she does not share a refrigerator or kitchen with the [REDACTED] parents and that [REDACTED] works very different hours and does not eat with the FS household. I am not sure how the agency came to the conclusion that [REDACTED] is part of the FS household. I can only understand that it had a suspicion or concern. That is not enough. In a matter such as a termination of ongoing FS, the agency has the burden to show that the termination is justified. It did not do so.

CONCLUSIONS OF LAW

The agency erred in terminating the FS benefits.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with direction to reinstate FS eligibility retroactive to 12/31/15 and to issue any appropriate supplements. These actions must occur within 10 days.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 17th day of May, 2016

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 17, 2016.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability